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**DEPARTMENT OF JUSTICE**  
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**Reply to Civil Division, (302) 577-8400**

January 14, 2022

VIA CM/ECF

The Honorable Maryellen Noreika  
United States District Court, District of Delaware  
J. Caleb Boggs Federal Building  
844 N. King Street  
Unit 19  
Room 4324  
Wilmington, Delaware 19801-3555

RE: *Amy Spahr, et al., v. Amy Collins, et al.*, CA No. 19-113-MN

Dear Judge Noreika:

On December 17, 2021, the Court issued its decision on Defendants' Motion for Judgment on the Pleadings.<sup>1</sup> The Court dismissed all claims except for the procedural due process and unlawful removal claims against Defendant Amy Collins.<sup>2</sup> In the Court's memorandum opinion of December 17, 2021, Your Honor stated that Defendant Amy Collins "is not entitled to qualified immunity at this stage of the proceedings[.]"<sup>3</sup>

I am writing this letter to the Court to ask if the Court would be willing to entertain a motion for summary judgment solely on the issue of qualified immunity as it may apply to Defendant Collins. As the Court may be aware, the parties were deposed over several days in December of 2021 and we received transcripts of such depositions later that month. Further, the parties have exchanged discovery in this matter. Therefore, the Court would be able to determine whether qualified immunity applied to Ms. Collins given that a record has been established.

Indeed, "whether [a state employee] made a reasonable mistake of law and is thus entitled to qualified immunity is a question of law that is properly answered by the [C]ourt, not a jury."<sup>4</sup> Therefore, a summary judgment motion is Ms. Collins's opportunity to raise the issue of qualified immunity. As a result, I request leave of Court to file a motion for summary judgment out of time solely on the issue of qualified immunity for Ms. Collins.

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<sup>1</sup> D.I. 49.

<sup>2</sup> D.I. 50 at 1.

<sup>3</sup> D.I. 49 at 7.

<sup>4</sup> *Curley v. Klem*, 499 F.3d 199, 211 (3d Cir. 2007).

I apologize for not bring this to the Court's attention sooner. I am available at the Court's convenience to address any questions or concerns this letter may raise. Thank you.

Respectfully submitted,

/s/ Robert M. Kleiner  
Deputy Attorney General

cc: Ronald G. Poliquin (via CM/ECF)